

1 Welch

2 MS. GRAZIOSO: Is that one of the  
3 files that was on the disk?

4 MS. SINHA: No. It was produced  
5 in hard copy.

6 MS. GRAZIOSO: A picture of a  
7 message?

8 MS. SINHA: Yes. There were two  
9 messages or three messages.

10 MS. GRAZIOSO: We can confer  
11 after.

12 MS. SINHA: Okay.

13 BY MS. GRAZIOSO:

14 Q. The message you said went just to  
15 you?

16 A. Yes. Then I found on his -- I was  
17 trying to do my career development and on  
18 his hard drive was an old career development  
19 that made fun of my disability.

20 Q. What time frame are we talking  
21 about?

22 A. 2010.

23 Q. 2010. Was Victor Martini, was he  
24 your boss, your supervisor?

25 A. No. I just reported to him to



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Welch

help out in those centers doing safety rides.

Q. Okay. So he sent you a text that said "What if John Welch died"?

A. Right.

Q. Then you were on his work computer?

A. Yes. Because that is where the career development guides were.

Q. How did you come to find an old career development?

A. You usually use last year's as a foundation because there is a lot of data that you put in that is repetitious, years of service, your name, what jobs you have done so you really don't want to do that again so you do the old one and in it was statements that were highlighted in red.

Q. What statements?

A. I printed out the report and I have when it was created and by whom so it wasn't something I created.

It says, goals, next, one to two years, continue to ride out my disability.



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Welch

Goal three -- no, ride out the disability and then goal three to five years was continue to ride out the disability and something like -- I don't have the exact wording but with the understanding that everyone knows it is not true.

Q. You --

A. But the document will speak for itself.

MS. GRAZIOSO: Has that been produced?

MS. SINHA: Yes.

BY MS. GRAZIOSO:

Q. You believe that Victor Martini wrote this document?

A. Well, I looked under the properties and I printed the properties and it said MAS-1 VSM which is the designation of his log-in ID. When you create a document and the document is saved it tells you who did it.

Q. Did you confront Mr. Martini with this document?

A. No.



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2 Q. When did you say you were at his  
3 terminal when you located this document?

4 A. 2010 June. What makes me believe  
5 that this was something that was created  
6 perhaps as a joke and I hope really not  
7 disseminated to someone else is the fact  
8 that the career planning employee data has  
9 Victor's data in it.

10 Q. Where do you see Victor's data?

11 A. IE, clerk. That is when Victor  
12 began his career as an IE clerk.

13 Q. Okay. And on the front page of  
14 the document though whose name and what  
15 dates are on it?

16 A. It says my name.

17 Q. It says John Welch?

18 A. Yes.

19 Q. What dates for what period?

20 A. January '01 to December '01.

21 Q. Do you recall if you filled out a  
22 CDA for yourself in 2001?

23 A. No.

24 Q. Are these documents filled out  
25 yearly?



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Welch

A. Supposed to be, yes.

Q. You are not sure if you did one in '01?

A. No.

Q. What leads you to believe that Mr. Martini made any edits to this document?

A. I just see career goals ride out the disability. That is a negative connotation to me. I am going to take this disability and ride it out.

It says here, present assignment, pick one. Continue to -- three, career goals, three to five years, continue to ride out the disability as instructed even though I can be a viable asset to any operation. And supporting fact for the goals, the ill-conceived perception of my disability is lodged deep in the minds of management thus rendering me useless in their eyes.

Q. Did Mr. Martini ever show you this document?

A. No.

Q. You found it by going through the files on his computer?



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John K. Welch - Volume II

January 11, 2011

332

1 Welch

2 A. Yes.

3 Q. Did you have any authority or  
4 permission from Mr. Martini to go through  
5 the files on his computer?

6 A. No.

7 Q. You are flipping through to pages  
8 that look like document properties?

9 A. Yes.

10 Q. If you could read the bottom the  
11 Bates number so I know which one you are  
12 looking at.

13 A. 343.

14 Q. How did you come to obtain this  
15 information?

16 A. Just opened up the document and  
17 went to the properties and it says, save  
18 under the D drive, documents and settings,  
19 by MAS-1 VXM which would be Victor's ID.

20 Q. When you sat down at Mr. Martini's  
21 computer did you log into the system?

22 A. No.

23 Q. So you were operating under  
24 Mr. Martini's log in information?

25 A. Right.



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2 Q. So had you made any edits to the  
3 document that similarly would have shown  
4 that that is who would have made the edits?  
5 It would have showed Mr. Martini?

6 A. Right.

7 Q. And so if anyone else had sat down  
8 at Mr. Martini's computer and opened file it  
9 would have shown the same log in info?

10 A. Yes.

11 Q. On the second one what is the  
12 Bates number on the bottom right of that?

13 A. 345.

14 Q. Okay. And what is the document  
15 property information listed?

16 A. Monday, June 15, 1998.

17 Q. Is that for the same document?  
18 Are both --

19 A. Yes.

20 Q. Okay.

21 A. So I guess it was saved once upon  
22 a time. That was the general and this is  
23 the statistics.

24 Q. Based upon that when does it  
25 appear that the document was created?



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A. 1998.

Q. Did you ever confront Mr. Martini with this document?

A. No.

Q. Did you ever mention it to anyone else at UPS --

A. No.

Q. -- prior to producing it in this lawsuit?

A. No. I was just bothered by it. I didn't think to give it to anybody.

Q. At the same time you viewed it you printed a copy for yourself?

A. Yes.

Q. Along with the document properties?

A. Yes.

Q. Thank you.

MS. GRAZIOSO: We are going to mark this S.

(Photo of DIAD Board was marked Defendant's Exhibit S for identification)

BY MS. GRAZIOSO:

Q. Mr. Welch, I am going to show you



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Welch

what has been marked as Defendant's Exhibit  
S and ask you to take a look at that.

A. Yes.

Q. Do you recognize that photo?

A. Yes.

Q. What is that a photo of?

A. The DIAD board, Delivery  
Information Acquisition Device text message  
transmission to me.

Q. What does the text message read?

A. What about John Welch died.

Q. Is this the text message that you  
were referring to earlier in your testimony?

A. Yes.

Q. This was sent to you by whom?

A. I don't know.

Q. It doesn't identify a sender?

A. No.

Q. Do you know when abouts you  
received this text message?

A. I was out with a driver.

Q. This year, last year?

A. This year.

Q. 2010?



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Welch

A. Prior to finding this is when I got this.

Q. Okay. So sometime in 2010?

A. Yes.

Q. Do you know this message was sent just to you? Maybe the background question. On the DIADs can you send a mass message and then individual messages?

A. Yes.

Q. So this you believe was sent just to you?

A. Right.

Q. Did you respond to the message?

A. No. I think I wrote what does that mean.

Q. Okay. When you respond does it give you any indication of who the message is being sent to or where the message is being sent?

A. General to the station, to the RMS station.

Q. After you sent your response did you receive any response back?

A. No.



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Welch

Q. Did you inquire as to any managers or supervisors about the message?

A. No.

Q. Did you show the message to anyone?

A. No.

Q. Did you report the message to anyone at UPS?

A. No.

Q. How did you capture the message?

A. Took a picture of it.

Q. What did you use to take a picture?

A. My cell phone, Droid.

Q. Did you delete the message?

A. The message, no. It goes away when you punch out. It purges itself everyday.

Q. Okay. Mr. Welch, we are going to talk a little more specifically about some of your allegations. Some of it we probably touched upon. To the extent you feel you are repeating yourself I apologize but we are going go through kind of everything.



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Welch

Q. In what way do you feel that UPS has discriminated against you based upon your disability?

A. Just in statements, in actions and in response to my requests.

Q. Let's go through those. What statements?

A. Your disease is causing me a problem, I don't have a job for someone like you.

Q. Those two we had talked about earlier?

A. Yes.

Q. Any others?

A. I am going to contact our legal department to see if we still have a job for you.

We are going to make you an OMS.

Q. What is an OMS?

A. Office Management Specialist.

Q. Who made that statement?

A. Kevin.

Q. Do you know when?

A. 2007. I was referred to as a



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medical?

A. Tom Soregeroli.

Q. What year was that?

A. 2007.

Q. I think when we talked about it earlier it had been 2000 or 2001?

A. It is 2000, right.

Q. Is that the same with -- his comments to Cindy Miller and her conversation with you?

A. 2000.

Q. 2000.

A. I am sorry.

Q. Sure.

A. Dan Daley asking me to meet him because he wanted to talk to me off the grounds. He said -- basically he started it off by general line of questioning but then expedite -- you know, slowly escalating his involvement in the story by saying, which was taped in this conversation, by asking questions like, how many kids do you have, is this your only source of income. Then I felt the pressure coming.



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Welch

What is it going to be like when you don't work here anymore. You know how the market is. It is not doing well. People lined up out the door trying to get a job here.

Q. Okay.

A. What else did he say?

Your bottom line is you are costing us a lot of money in legal fees and it would behoove you to back off.

Q. Okay.

A. You are not here to supervise. You are here to work.

Q. Who made that comment?

A. Joe Mero.

Q. When did he make that comment?

A. 2008, Rosh Hashanah holiday.

2010 told to get in a trailer. Told him I am going to supervise, I am assigned to Manhattan.

He needed me to help in Maspeth which is Queens. He told me to sign for the Rosh Hashanah holiday to go to the Maspeth facility at which time I am figuring I am



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Q. When was that statement made?

A. 2007.

Q. That was by Mr. DiLibero?

A. No.

Q. Who made that statement?

A. Mr. Ridolfi.

Q. Any other comments, actions that you felt were discriminatory based on your disability?

A. There was a solicitation and maybe, I can't really mention what I think but I believe a solicitation of documents that are not consistent with that which is provided to or that is consistent to those of my peers.

Q. Okay. Can you give me an example of what you mean?

A. That Rizzo document that was instructed to do that because they knew -- everything went down at the same time. That document, the security following me and documenting and putting together that document, it was let's take care of ourself and let's damage the person that we are



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Welch

supposed to take care of. Let's damage his reputation instead of let's follow the ADA process, there is nothing more important than taking care of this individual who has been with us 20 something years already. Let's take care of that. Instead, no, let's follow him, let's document against him.

I want to see the documentation that is against me from the prior years and I want to bring bus loads of people in here that can attest to my commitment and service in the past.

And I want to be able to prove that all I did was get sick and I don't know how many ADA requests it is going to take but it is four so far so maybe there is a magic number, maybe who want to be opening another fifth and sixth and seventh one.

I don't know what it takes but who is responsible for it not getting done? Who is going to be ultimately responsible for it other than myself?

Q. Do you have any facts to support your thought that documents such as



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Welch

Mr. Rizzo's activity sheet are only created for you and not for anyone else?

A. Yes.

Q. Okay. What facts?

A. Mr. Rizzo is a known liar. I asked for days off. I asked for days off and then he didn't document or didn't communicate and then they are asking where John is. I don't know. Rather than being a man and answer for it.

I am in the office with him and Kevin and they are like communicating to me about me making sure I communicate when I am not in work. Now, I would like -- those days that I wasn't at work I want them to prove I wasn't there.

I had a 24-hour round-the-clock operation and if I wasn't there maybe I wasn't there during that period, I was reporting to managers that said I need you do this, I need you to do that, I need you to do that, go out, we had an accident, we need a follow up, can you work the preload, can you do this, can I arrange my hours.



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So it was impossible especially given that the fact that the operation was left three months in arrears of anything done to it and instead of giving me the help that I needed -- first of all, I never really got the job down pat. It is the most difficult job I ever had in my life.

Q. Which job is that?

A. CHSP. It is the most difficult job I ever had in my life because that job hinges on many other jobs.

So Mr. Rizzo documents against me. Where is the documentation prior to Rizzo? There is none. I would beg to differ.

Q. So is what you are saying that Mr. Rizzo said you were out for two days but you weren't actually out?

A. Yes. Then when we were in the office with Kevin I walked out of the office and I said, what is he talking about? He said, don't worry about it, he has ADD.

Q. What did he mean?

A. I put my hand on a bible. I will put it on a bible. He said Kevin has ADD.



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Welch

BY MS. GRAZIOSO:

Q. Mr. Welch, one followup question regarding the text message or the DIAD message which was marked Exhibit S.

Was there a driver with you when you received your message?

A. Most likely, yes.

Q. Did you show it to whoever was with you?

A. I know where I was. I was on Central Avenue in Valley Stream and I know that the driver never did the route. Yes. I don't think I showed it to him. The driver's name was Mark Brooms.

Q. You don't think you showed it to him?

A. No.

Q. We talked a little bit last time we took your testimony about some of UPS' procedures in place for lodging complaints of discrimination or harassment.

What is your understanding of what those avenues are for employees?

A. Open door policy. You can just go



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2 into HR and tell them.

3 Q. Anything else?

4 A. Management concerns, hot line,  
5 employee dispute resolution to prevent  
6 against -- like a buffer, try not to have  
7 litigation.

8 Q. Okay. Anything else?

9 A. That is pretty much it.

10 Q. Did you ever utilize any of these  
11 mechanisms to report any of the  
12 discrimination harassment you felt you were  
13 suffering at UPS?

14 A. No.

15 Q. Why not?

16 A. Because the source of them was the  
17 place I had to report them to.

18 Q. What is your understanding of  
19 where complaints through the 800 number hot  
20 line go?

21 A. I think they go to corporate.  
22 Maybe not. I called -- I sent a letter to  
23 the CEO and he didn't respond. I got a  
24 district manager who allowed his security  
25 manager to bust someone that the security



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Welch

manager should have been busted for.

Q. So the complaints we talked about earlier are the issues earlier that you felt were harassing or discriminatory you never reported any of them through the 800 number?

A. No.

Q. Did you ever utilize an EDR procedure?

A. No. The EDR, I don't believe it is for that process. Perhaps it might be.

Q. Did you ever notify anyone at UPS that you felt you were being harassed or discriminated against based on your disability?

A. Yes.

Q. Who did you notify?

A. Gerrais Gary, Dan Daley, Craig Owen.

Q. Anyone else?

A. Yes. Kevin DiLibero, Irene Gordon, Mike Ridolfi, Wendy Marshall.

Q. Anyone else?

A. No.

Q. I think we talked a little bit



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John K. Welch - Volume II

January 11, 2011

400

1 Welch

2 A. I would think Kevin DiLibero.

3 Q. Do you recall when you wrote this  
4 letter?

5 A. Probably in October of '06.

6 Q. What was the purpose of this  
7 letter to Mr. DiLibero?

8 A. Just to let him know what my  
9 experience was there.

10 Q. Okay. Now, the first line of the  
11 letter says, "I believe that it has been  
12 told to you that I wanted to get out of this  
13 department."

14 What department are you referring  
15 to?

16 A. CHSP.

17 Q. Had you asked to leave CHSP?

18 A. No.

19 Q. Did you want to leave that  
20 department?

21 A. I wasn't opposed to it.

22 Q. What position did you hold in CHSP  
23 at that time?

24 A. CHSP supervisor of Island City  
25 which is in Maspeth, Queens.



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Welch

Q. Is that one of the positions we talked about earlier that did meet your medical restrictions?

A. Yes.

Q. And so why did you want to leave this position?

A. There was no appreciation. There was only-- you get attacked. There was no support, no training.

The gentleman I received the job from was supposed to train me weeks if not months in advance. I went on the day that he was clearing out his desk and I was told it was going to be a 6:00 a.m. to 2:00 p.m. job and Bob Marini said, it ain't happening, John, I have been doing this my whole career, I haven't worked less than 12 hours ever. It is an unforgiving job.

Q. And so why did you send this letter to Kevin?

A. I wanted him to know that what the rigors are, that -- for those that come after me.

Q. Were you leaving your CHSP



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